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By: 

Printed: Margaret M. Hasson

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re. Application of: Walker et al.

Title: DIAGNOSTICS AND THERAPEUTICS FOR PANCREATIC DISORDERS

Serial No.: 09/864,711

Filing Date: May 23, 2001

Examiner: Martinell, J

Group Art Unit: 1631

Box Non-Fee Amendment

Commissioner for Patents

Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT UNDER 35 U.S.C. 121

Sir:

This paper is responsive to the Restriction Requirement and Request for Election dated October 22, 2002, setting a one (1) month term for response.

Restriction Requirement

In the Restriction Requirement, the Examiner requested Applicants to elect one of the following inventions:

Group I (claim 1) drawn to a combination of polynucleotides.

Group II (claims 2, 3 and 13-15) drawn to polynucleotides, vectors, host cells, and methods of making polypeptides.

Group III (claims 4-12) drawn to nucleotide binding assays.

Group IV (claims 16 and 17) drawn to proteins and compositions containing proteins.

Group V (claims 18-20) drawn to protein binding assays.

The Examiner stated that if Group I is chosen, the combination will be searched until one nucleotide sequence is found allowable.

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The Examiner stated that if Groups II or III are chosen, the claims are subject to restriction under 35 U.S.C. § 121 as outlined in 1192 O.G. 68 (November 19, 1996) which permits the examination of from one to ten independent and distinct nucleotide sequences in a single application based upon USPTO resources. The Examiner therefore required Applicant to choose no more than one selected sequences which may include the complements of the selected sequences and, where appropriate, may include subsequences within the selected sequences.

The Examiner stated that if Groups VI or V are chosen, applicants are required to select one polypeptide sequence for examination or merits.

Applicants hereby elect, with traverse, to prosecute Group I, which includes and is drawn to claim 1. Applicants submit that at the very least claims 2, 3 and 13-15 of Group II could be examined with respect to the allowable sequence identified in claim 1 without an additional burden of search. Applicants therefore request reconsideration of the Restriction Requirement and examination of claims 1-3 and 13-15 with respect to the allowable sequence found by the Examiner in the examination of SEQ ID NO:1-13 of claim 1. Applicants reserve the right to prosecute the subject matter of non-elected claims in subsequent divisional applications.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 09-0108.

Respectfully submitted,
 INCYTE GENOMICS, INC.

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